

Applicants have amended the specification for clarity. More particularly, on page 1, line 28, the word "thread" was a typographical error and was amended to the word --tread--. not appear to be described in the specification. Applicants respectfully submit that the amendment to the specification does not add new matter. Based on the foregoing, Applicant respectfully requests withdrawal of the objection to the disclosure.

Applicant has amended claims 1 and 3 for clarity. More particularly, independent claim 1 has been amended to recite that the through holes in the tread extend entirely through a thickness of the tread and that the inserts have through holes therethrough for allowing vapor to pass through the through holes through the thickness of the tread.

Polegato discloses a vapor permeable shoe, including the following combination of elements: a vapor-permeable upper associated with a vapor-permeable or perforated lining, a tread made of perforated elastomer, a mid-sole comprising at least one membrane made of waterproof vapor-permeable material that is associated with a lower protective layer made of hydrolysis-resistant, water-repellant, vapor-permeable or perforated material, a vapor-permeable or perforated filler layer arranged between the insole and the membrane. The lower part of the upper, the tread, the mid-sole with the membrane are perimetrical sealed in the coupling regions.

Margolin discloses the combination of an insole and a resilient insert, the insert comprising a thick central portion and a peripheral lap extending over the insole, and means for securing the lap to the insole, the insert having cavities on its underside, adjacent cavities having relatively thin common walls, the cavities being polygonal in shape, the walls comprising resilient material, and openings leading from the cavities to the upper side of the insert, the thick central portion extending beyond the plane of the insole.

Sandmeyer discloses a ventilator for boots and socks, comprising a cup-shaped main section having a central opening at its back of inner end, and an opening at its front or outer end, the outer end being provided with a marginal flange, an outer cover of perforated or reticulated material for the front opening and engaging the flange, a clamping-ring bent over upon the flange to secure the cover in position, the ring being adapted to engage the outer surface of the material through which the main section is passed, and a tubular fastening-section having a tapering body adapted to fit over the inner end of the body of the main section, and a marginal flange extending outwardly from the wider end of the tapering body, the flange being inclined in direction of the smaller end of the body of the fastening-section and adapted to engage the inner surface of the material through which the main section is passed, the edge of the opening in the back of the main section being adapted to be turned over to form an inwardly-extending marginal flange extending outward into clamping engagement with the fastening-section.

None of *Polegato*, *Margolin*, and *Sandmeyer* teach or suggest, as is now recited in amended independent claim 1, that the through holes in the tread extend entirely through a thickness of the tread and that the inserts have through holes therethrough for allowing vapor to pass through the through holes through the thickness of the tread.

More particularly, Applicant respectfully submits that the combination of features as recited in amended claim 1, including the tread being made of leather and covered by the vapor-permeable and water impermeable membrane, the plastic inserts being assembled in the through holes through the tread, and the plastic inserts themselves having through holes therethrough for allowing vapor to pass through the through holes through the thickness of the thread, is not taught or suggested in the prior art.

Applicant respectfully submits that *Polegato* relates to perforated elastomer treads, contrary to the recitation in claim 1 that Applicant's treads are made of leather. There is no teaching or suggestion in *Polegato* regarding treads made of leather.

Moreover, the bosses 34 and 35 of *Margolin* are inserted into cavities 32 and 33 of an insole 31 (see the left column on page 3, lines 3-12), contrary to the recitation in Applicant's amended claim 1 that the inserts are assembled in the tread. Also, such bosses 34 and 35 do not appear to have through openings, but appear to be closed on the bottom (see Figs. 7 and 8), again contrary to the recitation in Applicant's amended claim 1 that the inserts have through holes. *Margolin* relates to pumping action in the interior of the shoe, at the insole, and there is nothing relating to waterproof and vapor permeable treads.

Sandmeyer relates to ventilators B provided only on the side upper of a shoe.

It is therefore respectfully submitted that there is no fair teaching or suggestion in the prior art of record which would lead one of ordinary skill in the art to Applicant's claimed structural combination and thus, Applicant respectfully submits that the combination of *Polegato*, *Margolin*, and *Sandmeyer* do not render obvious any of claims 1-8.

Applicant respectfully submits that the amendments to claims 1 and 3 do not add any new matter. Applicant also respectfully submits that claims 2-8 are either directly or indirectly dependent upon amended claim 1 so that arguments serving to patentably distinguish amended claim 1 from the prior art of record are available, among others, to patentably distinguish claims 2-8. Based on the foregoing, Applicant respectfully requests withdrawal of the rejection of the claims under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) as set forth in the Office Action, and allowance of amended claims 1-7 and 9-14.

In view of the present amendment, claims 1-8 are believed to be in condition for allowance, and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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IN THE SPECIFICATION:

Please amend the specification, as follows.

Page 1, lines 28-30, please amend the paragraph, as follows:

The [thread] tread is then assembled at least peripherally with at least one upper part made of rubber or similar material which has a plurality of through holes at least in the regions affected by the membrane.

IN THE CLAIMS:

Please amend claims 1 and 3, as follows:

1. (Amended) A waterproofed and vapor-permeable sole for shoes, comprising:
a tread [which is] made of leather [or similar material] and [is] at least partially covered in an upward region by a membrane made of a material which is permeable to vapor [and], which is impermeable to water, and which is sealed in peripheral regions thereof with respect to said tread[, said tread having];

through holes [in which] extending entirely through a thickness of said tread;
inserts made of plastic material [such as rubber or the like are] assembled [hermetically] in said through holes, said inserts in turn having through holes therethrough for allowing vapor to pass through said through holes through the thickness of said tread.

3. (Amended) The sole according to claim 1, wherein said membrane is peripherally spaced from the edge of said tread and further comprising a peripheral upper trim, which is made of rubber [or equivalent material], and which is assembled to said tread[, covering and sealing] so as to cover and seal peripheral regions of said membrane and [leaving] so as to leave a wide central opening through which said membrane is visible.